



MEMORANDUM

TO: Interested Parties

FROM: Dykema Gossett PLLC

RE: Coverage of Michigan No-Fault Statute

DATE: October 10, 2011

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The Michigan No-Fault statute, MCL 500.3101 *et seq.*, provides for the payment of unlimited personal protection insurance benefits, commonly known as "PIP" benefits. With limited exceptions, PIP benefits cover all reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person's care, recovery or rehabilitation. MCL 500.3107(1)(a).

The Legislature created the Michigan Catastrophic Claims Association ("MCCA") in 1978 when it added Section 3104 to the No-Fault statute. MCL 500.3104. The MCCA is a private, unincorporated, non-profit association. Every insurer engaged in writing No-Fault insurance for vehicles registered in Michigan must be a member of the MCCA as a condition of its authority to write No-Fault insurance in the State. MCL 500.3104(1). The MCCA indemnifies insurers for their ultimate losses in excess of a set amount which the members sustain in PIP benefits. That amount, originally set at \$250,000, increases yearly. The current level, which applies to policies issued or renewed during the period July 1, 2011 to June 30, 2012, is \$500,000. MCL 500.3104(2)(k). "Ultimate loss" is defined as "the actual loss amounts which a member is obligated to pay and that are paid or payable by the member". MCL 500.3104(25)(c). In other words, once the insurer has paid \$500,000 in benefits on a particular claim, the claim is deemed "catastrophic", and the MCCA then must reimburse the insurer for 100% of the benefits it is statutorily required to pay over and above the \$500,000, including all benefits payable in the future.

The insurer that issues a No-Fault insurance policy remains liable to claimants for PIP benefits, even if it is entitled to receive reimbursement for the ultimate loss from the MCCA. In the event that the MCCA becomes insolvent or is otherwise unable to reimburse the insurance companies who issue the policies covered by the No-Fault statute, the insurance companies would remain obligated to pay unlimited PIP benefits to claimants.